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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

5 WILLIAM G. MOORE,

6 Petitioner,

7 v.

8 UNITED STATES OF AMERICA,

9 Respondent.
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CASE NO. C10-5400BHS
(CR95-5415BHS)

ORDER TRANSFERRING
SUCCESSIVE 28 U.S.C.
SECTION 2255 PETITIONS
TO COURT OF APPEALS

12 This matter comes before the Court on William G. Moore's ("Moore") Petition for
13 a Writ of Habeas Corpus Under Title 28 U.S.C. § 2241. Dkt. 1. While Moore labels his
14 petition as one brought under § 2241, it is apparent to the Court from the face of Moore's
15 petition that he raises previously unsuccessful claims attacking only the legality of his
16 conviction and not the execution of his sentence. *Porter v. Adams*, 244 F.3d 1006 (9th
17 Cir. 2001)("will not permit a petitioner to circumvent the successive [28 U.S.C. § 2255]
18 motion bar by bringing a section 2241 petition") *Cf. Doganiere v. United States*, 914 F.2d
19 165, 169-70 (9th Cir. 1990) (holding that motions brought under § 2255 can test the
20 legality of the sentence imposed, not the manner of its execution); *United States v.*
21 *Giddings*, 740 F.2d 770, 772 (9th Cir. 1984) (stating that petitioners can challenge the
22 execution of their sentences by bringing a petition under § 2241).

23 Here, although much of the first two pages of Moore's petition contain arguments
24 as to why the petition is not a § 2255 motion, the Court concludes that such arguments
25 have no merit as the substantive arguments in Moore's petition clearly address the
26 legality of his conviction rather than the execution of his sentence. *Cf. Doganiere*, 914
27 F.2d at 169-70; *Giddings*, 740 F.2d at 772. As the Ninth Circuit held, Moore cannot
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ORDER

1 circumvent the successive § 2255 motion bar by labeling his petition as one brought
2 under § 2241. 244 F.3d at 1007. Therefore, the Court concludes that Moore's § 2241
3 petition is converted to a motion to vacate, set aside or correct sentence pursuant to §
4 2255 as the motion addresses Moore's sentence rather than the conditions of his
5 confinement. *See* 28 U.S.C. §§ 2241 & 2255.

6 Moore has previously filed at least ten successive motions pursuant to § 2255.
7 (*See* 3:07-CV-5457 at Dkt. 4). This Court lacks authority to review successive habeas
8 motions filed without an authorization from the Ninth Circuit Court of Appeals. § 2255.

9 Therefore, it is ORDERED that Petitioner's § 2255 motion is TRANSFERRED to
10 the Ninth Circuit Court of Appeals for determination of whether his motion should be
11 authorized pursuant to 28 U.S.C. § 2244(b)(3).

12 DATED this 16th day of June 2010.

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15 BENJAMIN H. SETTLE
16 United States District Judge
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